ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
SAM BIRD, JUDGE

DIVISION I

CACR06-764

MARCH 14, 2007

JEFFREY WEBB	APPELLANT	APPEAL FROM THE HOT SPRING COUNTY CIRCUIT COURT [NO. CR04-128-2]
V.		HON. PHILLIP H. SHIRRON, JUDGE
STATE OF ARKANSAS	APPELLEE	AFFIRMED

This case, which is before us for the second time, involves appellant Jeffrey Webb's conditional plea to possession of drug paraphernalia and the denial of his pretrial motion to suppress evidence seized from his home. The items were found by police conducting a procedure known as a "civil standby," in which they accompanied appellant's estranged wife to the home so that she could retrieve her personal belongings. Appellant entered his plea to the resultant criminal charge in the Hot Spring County Circuit Court on March 16, 2005, reserving his right under Arkansas Rule of Civil Procedure 24.3(b) to appeal the denial of his motion to suppress the seized evidence.

The initial appeal in this case was taken from the plea agreement itself rather than from a final judgment entered pursuant to the plea, and our search of the record revealed no

judgment and conviction order indicating that judgment had been entered pursuant to Webb's plea agreement. We dismissed the appeal because we lacked jurisdiction to hear it. *Webb v. State*, 94 Ark. App. 234, ___ , ___ S.W.3d ___, ___ (2006). On April 5, 2006, subsequent to our dismissal, the circuit court entered a judgment and commitment order. Appellant now appeals from the judgment and commitment, arguing that the trial court erred in denying his motion to suppress. Because appellant has complied with the express terms of Arkansas Rule of Civil Procedure 24.3(b), we have acquired jurisdiction of this case.

When considering the denial of a motion to suppress, the appellate court conducts a de novo review based on the totality of the circumstances, reviewing findings of historical facts for clear error and giving due weight to inferences drawn by the trial court. *Davis v. State*, 351 Ark. 406, 413, 94 S.W.3d 892, 896 (2003). Arguments not ruled upon by the trial court, however, are not preserved for our review. *See, e.g.*, *Romes v. State*, 356 Ark. 26, 46, 144 S.W.3d 750, 763 (2004) (barring suppression claim not clearly ruled on by trial court); *Ramirez v. State*, 91 Ark. App. 275, ___ S.W.3d ___ (2005) (barring suppression argument not raised or developed below).

Testimony was given at the suppression hearing by Deputy Chris Hilborn of the Hot Spring County Sheriff's Department, Investigator Terry Eubanks, and Janie Webb, wife of appellant. At the conclusion of their testimony, the trial court issued its ruling:

> The consent to search form is clear in its terms, it was valid. The defendant has no standing to attack the validity of the search allowed by someone else that had obvious business there, apparent authority to be there,

appeared to be living there to the police, could have been living there to the [police], had a key, etc., etc., etc. Motion is denied.

Appellant asserts on appeal that, under the totality of the circumstances, the officers' search was not the result of a valid consent, was unreasonable, and exceeded "the perimeters of the scope of which their presence was requested." He argues that there was no evidence to support a valid search when officers were called to assist in the civil standby and no testimony that officers explained the consent form to Ms. Webb or explained her right to refuse consent. He argues that she merely acquiesced to police authority and that the State did not prove that her consent was freely and voluntarily given. As for the unreasonableness of the search, he asserts that the officers sought her out, intimidated her into signing the consent form, entered the residence knowing that appellant was not there, and pilfered through boxes looking for contraband. He asserts that the officers abused their authority to help Ms. Webb retrieve her personal items.

The circuit court ruled only on the validity of the consent form, on appellant's standing to attack the validity of the search allowed by Ms. Webb, and on her authority to consent to the search. Appellant now focuses instead on the voluntariness of Ms. Webb's consent and on the officers' behavior. Because appellant has changed the basis of his challenge to the suppression of evidence, we will not address his arguments on appeal.

Affirmed.

PITTMAN, C.J., and HART, J., agree.